IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 146 OF 2007

MRS. PHILOMENA FERRAO PRESENTLY IN JUDICIAL LOCK UP ... Appellant

Versus

STATE OF GOA THROUGH MARGAO TOWN POLICE STATION REPRESENTED BY PUBLIC PROSECUTOR ... Respondent

Mr. A. Viegas, Advocate for the Applicant.

Ms. Winnie Coutinho, Public Prosecutor for the State/Respondent.

Coram:- N. A. BRITTO, J.

Date:- 5th July, 2007

P.C.:-

Heard the learned Counsel on behalf of the applicant and the learned Public Prosecutor on behalf of the respondent.

The applicant herein is accused in Crime No.107/2007 under Section 302 r/w 34 I.P.C. and having been denied bail by Order dated 25-5-2007, has approached this Court to obtain the same.

There is no dispute that the deceased, Denise Higgins was found murdered in her own house at about 9.00 hours on 27-4-2007 when the first informant returned to the said house as per instructions given by the deceased at about 22.00 hours on the previous day. As per the complaint filed by the first informant, when he left the said house on the said previous day at about 22.00 hours, the deceased, the accused Anand @ Andy and his companion, the applicant herein, along with the latter's daughter Princy were the only persons present in the said house of the deceased.

When the said first informant returned to the house at about 9.00 hours on 27-4-2007 and rang the door bell he found that there was no

response but on going to the rear side of the house found the kitchen door slightly open and then went to the hall where he found the deceased lying on the floor with blood around her and towels put on her body and her throat cut with a knife which was lying near her neck. He found that the said Anand @ Andy, his wife, the said applicant herein, and her daughter missing and therefore he lodged the F.I.R.

The investigations show that at the time when the said Anand @ Andy allegedly committed the murder of the deceased, the applicant herein was locked in by the deceased in a room on the first floor, along with the said Princy and apparently the very murder of the deceased took place when the deceased refused to give the key of the room where the applicant and her daughter were locked in. It appears that after the murder of the deceased, the said accused Anand @ Andy finding that the said room was also locked from inside, by the applicant herein, entered the said room by breaking open the glass of the window and thereafter went away from the said house along with the applicant herein and her said daughter.

The only allegation against the applicant herein appears to be that whilst coming down from the said room on the first floor, she saw the dead body of the deceased and yet did not file a complaint against the said Anand @ Andy to the Police and thereafter absconded from the house in her native place. The Investigation Officer does not believe that the applicant herein, in any manner participated in the murder of the deceased along with Anand @ Andy but at the relevant time she was unaware of the same, as she was locked in by the deceased in the said room and by herself, from inside the room. The allegations levelled against the applicant herein would be insufficient to deny bail to the applicant, however serious they might have been, as per the Investigation Officer.

Considering the above, in my opinion, the applicant deserves to be admitted to bail. She shall be released upon execution of a bond of Rs.20,000/- with one surety in the like amount to the satisfaction of the learned Sessions Court.

The observations made herein are only for the purpose of deciding this bail application and will not come in the way of the Courts below in deciding the case at any of its stages, on its own merit.

N. A. BRITTO, J.

RD.